

MINUTES HEARING OFFICER December 2, 2014

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Larry Tom, Principal Planner
Sherri Lesser, Senior Planner
Diana Kaminski, Senior Planner
Jeff Tamulevich, Code Compliance Manager
Jack Scofield, Code Inspector
Michael Glab, Code Inspector
Steve Nagy, Administrative Assistant II

Number of Interested Citizens Present: 15

Meeting convened at 1:35 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by December 16, 2014 at 3:00 PM, to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for November 18, 2014 had been reviewed and approved.

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2. Request approval to abate public nuisance items at the **Dailey Property (PL140387)** located at 1941 East Greenway Drive. The applicant is the City of Tempe.

Jack Scofield requested approval of abatement of the property located at 1941 East Greenway Drive. Notices have been sent to the owner of the property with no response. The owner was not present at the hearing, and there has been no public comment on the case.

Ms. MacDonald stated she was going to approve the property abatement.

DECISION:

Ms. MacDonald approved abatement proceedings for PL140387

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3. Request approval to abate public nuisance items at the **Brown Property (PL140385)** located at 2512 East Del Rio Drive. The applicant is the City of Tempe.

Michael Glab requested approval of a 180 day open abatement of the property located at 2512 East Del Rio Drive. Notices have been sent to the owner of the property with no response. The owner was not present at the hearing, and there has been no public comment on the case.

Ms. MacDonald stated she was going to approve the property abatement.

DECISION:

Ms. MacDonald approved abatement proceedings for PL140385

4. Request approval to abate public nuisance items at the **Hoffman Property (PL140386)** located at 1937 East Apollo Drive. The applicant is the City of Tempe.

The case was withdrawn.

5. Request approval to abate public nuisance items at the **Sun American- Howe LLC Property (PL140395)** located at 2173 East Howe Ave. The applicant is the City of Tempe.

Jeff Tamulevich requested approval of an emergency abatement of the property located at 2173 East Howe Ave. Notices have been sent to the owner of the property with no response. The owner was not present at the hearing, and there has been no public comment on the case.

Ms. MacDonald stated she was going to approve the property abatement.

DECISION:

Ms. MacDonald approved abatement proceedings for PL140395

6. Request approval for a Use Permit to allow Use Permit to allow parking in the front yard setback for **BLACK RESIDENCE (PL140400)**, located at 1015 WEST 10th Street. The applicant is Matt Black.

After reviewing the information provided, and based on recent up dates, Ms. MacDonald decided that she would continue the case

DECISION:

Ms. MacDonald continued PL140400

7. Request approval for a Use Permit to allow a self-storage facility for **101 & UNIVERSITY SELF-STORAGE (PL140402)**, located at 2435 EAST University Drive. The applicant is Joe Walsh, Walsh Design Group.

Diana Kaminski presented the case by reviewing the site location, and past uses of the site. Ms. Kaminski noted that the applicant agreed with the conditions of approval and she recommended approval.

Ms. MacDonald then called the applicant to the podium.

Joe Walsh, Tempe, presented by explaining what the project would consist of and how it would meet the needs of the surrounding community. He then reviewed the site plan and discussed what the hours of operation would be.

Diana Kaminski clarified what the hours of operation were as provided in the case report.

Ms. MacDonald then opened the hearing to public comment:

1. Linda Cabrera, Tempe, expressed opposition as she did not see the use fit in with the residential character of the area.
2. Carol Cabrera, Tempe, expressed opposition as she also did not see the use as a good fit for the neighborhood.

With no one else from the public wishing to speak on the case, Ms. MacDonald closed the hearing to public comment. She then called the applicant back up to respond to the comments made by the public.

Mr. Walsh came back up to the podium and clarified that the height of the storage building would not be invasive to the privacy of any neighbors, and that the use fits the commercial zoning designation. He also explained that the traffic at any given time of day is low, typically lower than 5 customers at any given time.

Ms. MacDonald noted that this request meets the criteria for a Use Permit Standard:

- Any significant increase in vehicular or pedestrian traffic.
- Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals, objectives, or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.
- Compatibility with existing surrounding structures and uses.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved PL140402/ ZUP14139 subject to the assigned Conditions of Approval:

CONDITIONS OF APPROVAL:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. A Development Plan Review approval for the site plan, building elevations and landscape plan shall be obtained by December 2, 2015, or the Use Permit will expire.
3. A Subdivision Plat to combine the three lots into one will be required prior to Building Permits.
4. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
5. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
6. Hours of operation to end no later than 7 p.m. on a daily basis. Self-service access will be limited to exiting by midnight, and no entrances prior to 5am.

7. Exterior loaded garage bays shall not be used for automotive maintenance, machine work, manufacturing, woodworking, band practice or any similar use that generates noise.
8. Exterior loaded garage bays shall not be used for conducting business, for occupancy as an office or residence.

8. Request approval for Use Permit for a second story addition and a variance to reduce the side yard setback from 5' to 4' for the **Geiger Residence (PL140401)** located at 127 EAST 15th Street. The applicant Tessa Jones.

Sherri Lesser presented the case by reviewing the request details, site location and building elevations. Ms. Lesser went on to say that the applicant had held a neighborhood meeting and that one member from the public had come to speak on the case. Staff recommended approval of the addition and of the variance.

Ms. MacDonald then called the applicant up.

Tessa Jones, Tempe and Mike Geiger, Tempe, agreed with the conditions set forth in the case report. They also agreed to confirm the setbacks in relation to the exact property lines. Ms. Jones then explained that there had been other 2-story homes built in the neighborhood. Mr. Geiger added that he had spoken with neighbors that were concerned that the addition would block sunlight from reaching her garden. He then went on to provide renderings showing how addition would affect neighbor's garden, which showed to be of minimal impact. Mr. Geiger added that he would be willing to add vining vegetation to grow along the wall between his property and the neighbor to the rear.

Ms. MacDonald then opened the hearing to public comment:

1. Scott Calin, Tempe, expressed opposition roof setback on the east side was different than building setback and will cause him a lack of light.
2. Pam Posten, Tempe, expressed opposition as she was concerned the addition would block sunlight from reaching her garden.

With no one else from the public wishing to speak on the case, Ms. MacDonald closed the hearing to public comment. She then called the applicant back up to respond to the comments made by the public.

Mr. Geiger came back up to the podium and addressed the concerns.

Ms. Lesser then read the condition regarding the vining vegetation along the rear property wall into record.

Ms. MacDonald noted that this request meets the criteria for a Use Permit Standard:

- Any significant increase in vehicular or pedestrian traffic.
- Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals, objectives, or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.
- Compatibility with existing surrounding structures and uses.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

Ms. MacDonald noted that this request meets the criteria for a Variance:

- That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings.
- The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.
- The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
- A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.

DECISION:

Ms. MacDonald approved PL140402/ ZUP14138/VAR14009 subject to the assigned Conditions of Approval:

CONDITIONS OF APPROVAL:

1. The Variance and Use Permit are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process. The setback may not be reduced further without seeking another variance.
2. The addition of a garage and the second story livable space shall provide circulation through the main living space of the house and not be physically separated to function as a second dwelling unit.
3. The materials and colors of the addition shall match or be compatible with the existing structure.
4. The property owner shall plant and maintain a vining vegetation along the west exterior all of the addition.

The next Hearing Officer public hearing will be held on January 7, 2015.

There being no further business the public hearing adjourned at 2:30 PM.

Prepared by: Steve Nagy, Administrative Assistant II
Reviewed by:



Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

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